

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RANDY DEWAYNE PITTMAN,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, et al.,

Defendants.

Case No. [22-cv-03806-VKD](#)

**ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS AS  
MOOT; DENYING AND DISMISSING  
ALL PENDING MOTIONS**

Re: Dkt. Nos. 9, 15, 20, 22, 32, 33, 41, 42

Randy Dewayne Pittman is currently in the custody of the U.S. Marshal at the Santa Rita Jail (“Jail”) in Dublin, California. Mr. Pittman initiated this action in pro se by filing a form complaint under 42 U.S.C. § 1983. Dkt. No. 1. However, based on the contents of that complaint and a subsequent “Petition for Writ of Habeas Corpus” filed by Mr. Pittman, (Dkt. No. 5), the Court determined that he had intended to file a petition for writ of habeas corpus under 28 U.S.C. § 2241, challenging the execution of his federal sentence, rather than a § 1983 action. Dkt. No. 7. The Court ordered Respondents to respond no later than August 12, 2022. *Id.* at 3. All parties have consented to magistrate judge jurisdiction. *See* Dkt. Nos. 3, 19.

Thereafter, Mr. Pittman filed several motions and requests for action, including: (1) a motion for placement in witness protection (Dkt. No. 9), (2) a supplement to the motion (Dkt. No. 20), (3) a motion to unseal and motion to object to the combining of civil and criminal cases (Dkt. No. 15), (4) a motion for discovery, evidentiary hearing, expedited trial, and other relief concerning the conditions of his confinement (Dkt. No. 22), (5), a declaration (Dkt. No. 24), (5) a letter concerning his safety at the Jail and the medical and mental health treatment he receives there, and requesting relief (Dkt. No. 23); a hearing request regarding his medical treatment (Dkt.

No. 30); and (7) a motion for supplemental information (Dkt. No. 33). Pursuant to the parties' stipulation, the Court ordered the parties to consolidate briefing on the petition and Mr. Pittman's several pending motions. Dkt. Nos. 28, 31, 34. On September 9, 2022, Respondents filed their omnibus response to Mr. Pittman's petition and pending motions. Dkt. No. 35.<sup>1</sup> Mr. Pittman filed an opposition and reply on September 14, 2022. Dkt. No. 38.<sup>2</sup> Respondents filed a reply on September 22, 2022. Dkt. No. 40.

The Court finds these matters suitable for determination without oral argument. Civil L.R. 7-1(b). For the reasons discussed below, the Court dismisses Mr. Pittman's habeas petition as moot and dismisses or denies without prejudice the remainder of Mr. Pittman's requests for relief.

## **I. BACKGROUND**

Unless otherwise noted, the following facts are not disputed.

In 2016, Mr. Pittman was convicted of a felony firearm offense in the Northern District of Texas. Dkt. No. 35-2 ¶ 3. On May 24, 2019, Mr. Pittman began serving a three-year term of supervised release for this offense. *Id.* His conditions of supervised release conditions included a requirement that he not commit any additional offenses. Dkt. No. 35-1 at 6.

On June 19, 2019, Mr. Pittman was arrested by Alabama state law enforcement for unlawful distribution of a controlled substance (the "unlawful-distribution offense"). Dkt. No. 35-2 ¶ 4. Mr. Pittman pled guilty on March 8, 2021 and was sentenced on May 24, 2021 to 24 months of probation on the state unlawful-distribution offense. *Id.* at 11-12. On June 25, 2021, Mr. Pittman was arrested on yet new charges, and, as a result, the Alabama court revoked his probation and sentenced him to a term of incarceration for the remainder of his 24-month term in the custody of the Alabama Department of Corrections. *Id.* at 4, 19-28, 30.

Mr. Pittman's unlawful-distribution offense also constituted a violation of the federal

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<sup>1</sup> Respondents' answer is supported by the declarations of Assistant U.S. Attorney Kelsey John Helland, counsel for Respondents, Dkt. No. 35-1, Tiffany Farmer, a Management Analyst at the Designation and Sentence Computation Center for the U.S. Department of Justice, Federal Bureau of Prisons, Dkt. No. 35-2, and Quentin Kinlock, a Supervisory Deputy with the U.S. Marshals Service, Dkt. No. 35-3.

<sup>2</sup> Mr. Pittman's opposition is supported by a two-page declaration.

1 supervised-release conditions set by the Northern District of Texas for his felony firearm offense  
2 (the “supervised-release violation”). Dkt. No. 35-1 at 5; Dkt. No. 35-2 at 53. Federal authorities  
3 arrested Mr. Pittman on October 27, 2021, and he was transferred from state custody to the  
4 custody of the U.S. Marshal on that same date. Dkt. No. 35-2 ¶ 10, 38-39; Dkt. No. 5 at 2.

5 On October 28, 2021, the day after Mr. Pittman was transferred to U.S. Marshal custody,  
6 the U.S. Attorney for the Northern District of California filed a five-count indictment against Mr.  
7 Pittman for aggravated identity theft and other offenses (the “identify-theft offense”). Dkt. No.  
8 35-2 ¶ 12, 43-51, 62. That case is *United States v. Pittman*, No. 21-cr-00418-HSG (N.D. Cal.).

9 On February 10, 2022, Mr. Pittman pled guilty to violating the federal supervised-release  
10 conditions set by the Northern District of Texas. That court revoked Mr. Pittman’s supervised  
11 release and sentenced him to a term of imprisonment of 12 months and one day, *i.e.*, 366 days.  
12 Dkt. No. 35-2 ¶ 13; *id.* at 53-54; Dkt. No. 5 at 3, 22-23. Given the co-pendency of the identity-  
13 theft case against him in this District and the relatively short duration of Mr. Pittman’s custodial  
14 sentence for his supervised-release violation, the Federal Bureau of Prisons (“BOP”) did not  
15 designate Mr. Pittman to serve his supervised-release sentence in a BOP facility, but instead  
16 permitted him to serve his sentence in the custody of the U.S. Marshal. Dkt. No. 35-2 ¶¶ 14, 19;  
17 Dkt. No. 5 at 5.

18 According to Respondents, BOP calculated Mr. Pittman’s federal sentence for the  
19 supervised-release violation as follows: Mr. Pittman’s sentence commenced on February 10, 2022  
20 (his sentencing date); he was entitled to a total of 170 days of credit; and therefore, his release date  
21 was August 24, 2022 (366 days after February 10, 2022, minus 170 days of credit). Dkt. No. 35-2  
22 ¶¶ 3, 13, 14; *id.* at 56-57, 75. According to Mr. Pittman, the BOP calculation is incorrect, and his  
23 release date should have been calculated as August 12, 2022. Dkt. No. 5 at 4, 8.

24 On July 6, 2022, Mr. Pittman pled guilty to aggravated identity theft in the criminal action  
25 filed against him in this District. *See United States v. Pittman*, No. 21-cr-00418-HSG, Dkt. No.  
26 63. After Mr. Pittman completed his custodial sentence for his federal supervised-release  
27 violation in August 2022, he remained in the custody of the U.S. Marshal in the status of a pre-  
28 trial detainee pending sentencing for his identify-theft conviction. Dkt. No. 35-2 ¶ 19. On August

31, 2022, Mr. Pittman was sentenced to a two-year term of imprisonment for that offense, followed by a one-year term of supervised release. *See United States v. Pittman*, No. 21-cr-00418-HSG, Dkt. No. 93. Judgment was entered on September 13, 2022. *Id.*, Dkt. No. 102. The record before the Court does not reflect BOP’s designation of a facility for Mr. Pittman to serve his sentence for the identity-theft offense or BOP’s calculation of a release date Mr. Pittman.

## II. LEGAL STANDARD

A prisoner’s request for judicial review of the execution of a federal sentence is properly brought as a petition under 28 U.S.C. § 2241. *United States v. Giddings*, 740 F.2d 770, 772 (9th Cir. 1984); *United States v. Richardson*, No. C 10-5203 SI, 2011 WL 2650697, at \*3 (N.D. Cal. July 6, 2011) (challenge to calculation of sentence). Section 2241 allows “the Supreme Court, any justice thereof, the district courts and any circuit judge” to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2241(a). “[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

## III. DISCUSSION

Respondents argue that Mr. Pittman’s habeas petition should be dismissed or denied as moot because Mr. Pittman has already completed the sentence as to which he disputes the date of release. Dkt. No. 35 at 8. In addition, Respondents argue that the Court should deny all of Mr. Pittman’s other motions and requests for relief, as none of those matters are related to the habeas petition. The Court first considers Respondents’ mootness challenge to Mr. Pittman’s habeas petition and then addresses the other pending motions and requests.

### A. Whether Mr. Pittman’s Petition Is Moot

Mr. Pittman’s habeas petition concerns the BOP’s calculation of the release date for the sentence the Northern District of Texas imposed for his supervised-release violation. Dkt. No. 5 at 4. Respondents argue that because Mr. Pittman has completed that sentence (whether on August 12, 2022, as he claims, or on August 24, 2022, as Respondents claim), his habeas claim is now moot because there is no longer a case or controversy to be resolved. *Id.* Respondents note that Mr. Pittman remained in U.S. Marshal custody after completion of his supervised-release

1 violation sentence as a pre-trial detainee solely in connection with the separate identity-theft  
2 offense, and continues to remain in U.S. Marshal custody following his conviction for that offense  
3 while awaiting designation to a BOP facility. Dkt. No. 35 at 13.

4 In a response filed two weeks before the deadline set by the Court, Mr. Pittman requests a  
5 hearing “to state facts on the record since he cannot do so in writing.” Dkt. No. 38 at 1. Mr.  
6 Pittman says that because he is in solitary confinement he has “no paper, no pen, no postage, no  
7 nothing.” *Id.* at 4. However, he also explains that he is “in no way attempting to challenge [his]  
8 incarceration,” and that “even if the sentence-end date has passed there is still a live or actual  
9 controversy because [he is] challenging the sentence end date not whether [he is] in or out of  
10 custody,” and because the sentence-end date “automatically effects the next sentence begin date.”  
11 *Id.* at 3, 4.

12 The Court first considers whether Mr. Pittman has been deprived of an opportunity to  
13 respond in writing to Respondents’ motion to dismiss and requires a hearing to present evidence  
14 and argument. The Court is not persuaded that Mr. Pittman has suffered any such deprivation.  
15 His request for a hearing itself was made *in writing*. Moreover, during the course of this habeas  
16 proceeding, Mr. Pittman has filed more than 100 pages of briefing and other requests for court  
17 action, demonstrating that he has the means to prepare and file written materials. For this reason,  
18 the Court denies Mr. Pittman’s request for a hearing in lieu of a written response to Respondents’  
19 motion.

20 The more substantial question is whether Mr. Pittman’s completion of his sentence for the  
21 supervised-release violation caused his petition for writ of habeas corpus to become moot even  
22 though he remains in federal custody. To meet the case-or-controversy requirement of Article III,  
23 § 2, of the U.S. Constitution, Mr. Pittman must have standing to bring his claim in the first  
24 instance, and he must continue to have personal interest in the claim for the duration of the action.  
25 *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *Kittel v. Thomas*, 620 F.3d 949, 951 (9th Cir. 2010). In  
26 the context of a habeas petition, the mootness “analysis is specifically limited to the sort of  
27 equitable relief [the court] may grant in response to a habeas petition.” *Burnett v. Lampert*, 432  
28 F.3d 996, 999 (9th Cir. 2005). “The general rule concerning mootness has long been that a petition

1 for habeas corpus becomes moot when a prisoner completes his sentence before the court has  
2 addressed the merits of his petition.” *Zichko v. Idaho*, 247 F.3d 1015, 1019 (9th Cir. 2001), *as*  
3 *amended* (June 5, 2001) (internal quotations omitted).

4 There is no dispute that Mr. Pittman has now completed his sentence for his supervised-  
5 release violation, and that after completion of the sentence he remained in U.S. Marshal custody as  
6 a pre-trial detainee pursuant to 28 U.S.C. § 3142(e) pending further proceedings related to the  
7 identity-theft offense charged in this District. With respect to that sentence, Mr. Pittman’s petition  
8 is moot, as the Court cannot afford him any habeas relief; he has completed that sentence and the  
9 length of time he served cannot be undone. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477  
10 (1990). However, the Court construes Mr. Pittman’s petition and briefing as suggesting that his  
11 release date for the custodial sentence for his subsequent identity-theft offense will be later than it  
12 should be because he will not receive any credit for the 12 extra days he says he served in  
13 connection with his prior supervised-release violation sentence, and that this is a “collateral  
14 consequence” of BOP’s miscalculation of his release date that prevents his petition from being  
15 moot. *See, e.g., Spencer*, 523 U.S. at 7 (“Once the convict’s sentence has expired . . . some  
16 concrete and continuing injury other than the now-ended incarceration or parole—some “collateral  
17 consequence” of the conviction—must exist if the suit is to be maintained.”).

18 Mr. Pittman bears the burden of demonstrating that collateral consequences adequate to  
19 meet Article III’s injury-in-fact requirement resulted from BOP’s alleged miscalculation of his  
20 completed sentence. *See id.* at 14. Mr. Pittman asserts that the end of his supervised-release  
21 violation sentence “automatically effects the next sentence begin date.” Dkt. No. 38 at 4. But this  
22 assertion is not supported by the record. As noted above, although judgment has been entered  
23 against Mr. Pittman on his conviction for the identity-theft offense, Mr. Pittman has not been  
24 transferred to BOP custody for service of that sentence and BOP has not yet calculated his release  
25 date for that sentence. It is not possible to predict whether or how the calculation of Mr. Pittman’s  
26 release date for his prior, completed sentence will impact BOP’s calculation of his release date for  
27 his current sentence. *See Spencer*, 523 U.S. at 14-16 (rejecting sufficiency of alleged collateral  
28 consequence that is merely possible, but not certain or even probable); *see also United States v.*

1 *Arnette*, 329 F. App'x 714, 715 (9th Cir. 2009) (“Arnette here challenges his twenty-nine-month  
2 detention in the Metropolitan Detention Center (“MDC”), prior to conditional release, after he was  
3 found not guilty by reason of insanity (“NGRI”) on federal bank robbery charges. That claim  
4 became moot when he was placed in custody pending disposition of the new charges.”).

5 Accordingly, the Court concludes that Mr. Pittman’s petition for writ of habeas corpus  
6 challenging the execution of the sentence imposed by the Northern District of Texas for violation  
7 of his conditions of supervised release is moot.

8 **B. Other Motions and Requests for Relief**

9 As noted above, Mr. Pittman filed several motions and requests for relief in this action.  
10 These matters are unrelated to his habeas petition—including, for example, his requests for  
11 placement in witness protection, objections to certain conditions of his confinement, and his  
12 multiple requests seeking discovery and evidentiary hearings on various matters.

13 Having concluded that Mr. Pittman’s habeas petition is moot, this Court has no authority to  
14 grant the relief Mr. Pittman seeks with regards to these other unrelated matters. Mr. Pittman’s  
15 claims regarding his safety and inadequate medical and mental treatment at the Santa Rita Jail  
16 involve conditions of confinement, not the legality of his conviction or sentence. Such claims  
17 against state actors do not “lie at the ‘core of habeas corpus’” and must therefore be brought under  
18 42 U.S.C. § 1983. *Nettles v. Grounds*, 830 F.3d 922, 931 (9th Cir. 2016) (en banc) (internal  
19 citation omitted). Although a district court may construe a habeas petition by a prisoner attacking  
20 the conditions of his confinement as a civil rights action under § 1983, *see Wilwording v.*  
21 *Swenson*, 404 U.S. 249, 251 (1971), the Court declines to do so here.

22 The mootness of the underlying habeas claim also renders moot any of Mr. Pittman’s  
23 motions involving procedure and other ancillary matters. Specifically, his objection to the  
24 consolidation of his civil and criminal cases (Dkt. Nos. 9, 20), and his motion to unseal and  
25 repeated objection to the combining of civil and criminal cases (Dkt. No. 15), need not be decided  
26 as this action must be dismissed. Mr. Pittman’s motion for discovery, evidentiary hearing, and  
27 expedited trial (Dkt. No. 22), motion for summary judgment and emergency hearing request (Dkt.  
28 No. 32), and motion to supplement information (Dkt. No. 33), involve the merits of his habeas



petition, which is now moot.

**IV. CONCLUSION**

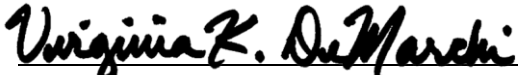
For the foregoing reasons, the petition for writ of habeas corpus is dismissed as moot. In view of this dismissal, Mr. Pittman's requests for relief pertaining to his conditions of confinement are denied without prejudice. All other pending motions and requests are dismissed as moot.

This order terminates Docket Nos. 9, 15, 20, 22, 32, 33, 41, and 42.

The Clerk of the Court shall close the file.

**IT IS SO ORDERED.**

Dated: November 23, 2022

  
VIRGINIA K. DEMARCHI  
United States Magistrate Judge